

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

2-----x 20-CR-305 (LDH)

3 UNITED STATES OF AMERICA

4 United States Courthouse
5 Brooklyn, New York

6 KARL JORDAN, RONALD
7 WASHINGTON and JAY BRYANT,

7-----x July 11, 2023
8 11:30 a.m.

9 Defendants.

10-----x
10 TRANSCRIPT OF CRIMINAL CAUSE FOR STATUS CONFERENCE
11 BEFORE THE HONORABLE LaSHANN DeARCY HALL
12 UNITED STATES DISTRICT JUDGE

13 APPEARANCES

14 For the Government: UNITED STATES ATTORNEY'S OFFICE
15 Eastern District of New York
16 271 Cadman Plaza East
17 Brooklyn, New York 11201
18 BY: ARTIE McCONNELL, ESQ.
19 MIRANDA GONZALEZ, ESQ.
20 Assistant United States Attorneys

21 For the Defendant: DIAZ & MOSKOWITZ, PLLC
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25 BY: JOHN ANTHONY DIAZ, ESQ.

26 MICHAEL O. HUESTON, ATTORNEY AT LAW
27 16 Court Street - Suite 1800
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29 BY: MICHAEL O. HUESTON, ESQ.

30 FISCHETTI & MALGIERI LLP
31 747 Third Avenue - 20th Floor
32 New York, New York 10017
33 BY: MONICA NEJATHAIM, ESQ.

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1 APPEARANCES (CONTINUED)

2 For the Defendant: SUSAN GAIL KELLMAN, ESQ.
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3 Brooklyn, New York 11217

4 LAW OFFICES OF EZRA SPILKE, PLLC
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5 Brooklyn, New York 11230-1834
BY: EZRA SPILKE, ESQ.

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7 Jay Bryant 111 Fulton Street - 602
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8 BY: CESAR DE CASTRO, ESQ.
SHANNON MICHAEL McMANUS, ESQ.

9 Also Present: ANNA NOVEMBER

10
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14 Proceedings recorded by mechanical stenography. Transcript
15 produced by computer-aided transcription.

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18
19 (In open court.)

20 (Defendants enter the courtroom.)

21 THE COURTROOM DEPUTY: Good afternoon. This is a
22 criminal cause for a status conference in the matter of USA
23 versus Karl Jordan, Ronald Washington and Jay Bryant, Docket
24 Number 20-CR-305.

25 Can counsel please state their appearance for the

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1 record, starting with the government.

2 MR. McCONNELL: Good afternoon, Your Honor. Artie
3 McConnell, Miranda Gonzalez for the United States. We're
4 joined at counsel table by Anna November, a paralegal.

5 THE COURT: All right, good afternoon.

6 MR. HUESTON: Good afternoon, Your Honor. Michael
7 Hueston, John Diaz and Monica Nejathaim for Karl Jordan.

8 THE COURT: Good afternoon.

9 MS. KELLMAN: Good afternoon, Your Honor. Susan
10 Kellman for Ronald Washington, who is present in the court.
11 Good afternoon, Judge.

12 THE COURT: Good morning.

13 MR. McMANUS: Good afternoon. Shannon McManus for
14 Jay Bryant, who's first in the box.

15 THE COURT: All right, good afternoon to you all as
16 well.

17 And good afternoon, gentlemen.

18 All right, folks, this is our second status
19 conference since the most resent superseding indictment.

20 I want to confirm that Mr. Bryant was indeed
21 arraigned before the magistrate judge, as directed by this
22 Court?

23 MR. McCONNELL: Yes.

24 THE COURT: All right, perfect.

25 I'll hear first from the government concerning any

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1 updates on where we are, and then I'll take it from -- I'll
2 turn to the defense and take it from there.

3 MR. McCONNELL: Your Honor, at the last status
4 conference we discussed some disclosures that needed to be
5 made to the defense. We did those promptly and in accordance
6 with the schedule that was set by the Court at the last status
7 conference.

8 We also produced all the discovery in the case to
9 Mr. Bryant's counsel, and we remain in communication with them
10 and available to discuss that discovery to the extent they
11 need any assistance going through it efficiently.

12 While we don't have any additional matters or
13 material, I should say, to produce to any of the defendants, I
14 will note that there was an additional contraband phone that
15 was recovered from Mr. Jordan, along with a ceramic knife, I
16 believe from his jail cell, which the government is in the
17 process of exploiting, and to the extent that there's any
18 information that's relevant to the case that we discover,
19 we'll produce that to the defense and notify the Court
20 accordingly.

21 The last issue, with respect to Mr. Bryant, in our
22 discovery production, we also made our typical reciprocal
23 discovery demands, one of which was a request for any alibi
24 notice, which we are still in the process of waiting for.

25 THE COURT: All right. So in the government's mind,

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1 the *Brady* issues that we discussed largely at sidebar at the
2 last conference have been resolved, at least in the
3 government's estimation?

4 MR. McCONNELL: Yes.

5 THE COURT: All right, great.

6 All right, I'll hear from the defense.

7 MR. HUESTON: I'll start, Your Honor.

8 I can confirm that the government did make its
9 disclosures to us, and we have nothing to discuss about that
10 matter any further, so we're set with that.

11 THE COURT: Good. Perfect.

12 MS. KELLMAN: It's the same, Your Honor, we've
13 gotten disclosures and we have nothing further.

14 THE COURT: All right, Mr. Bryant. Well, counsel
15 for Mr. Bryant.

16 MR. De CASTRO: Thank you, Judge.

17 Can I sit just so I can use the mic? I mean, I can
18 stand.

19 THE COURT: Look how that works.

20 MR. De CASTRO: So a few things to raise.

21 Our first time here on this case, and so I know the
22 Court is aware of my other sort of scheduling issues.

23 THE COURT: Because of Judge Cogan's order?

24 MR. De CASTRO: Correct.

25 So I think that sort of resolves the issue. I can

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1 tell you that -- I mean, I have to raise this now, because
2 there is, in my view, there is little to no way I can be ready
3 in January for this trial, and let me explore that.

4 First, Mr. Bryant has been in custody for over a
5 year on a separate matter before Judge Cogan. That case, the
6 government has made no offer on that case, we were geared up
7 for trial and scheduled for December 18th, it's still
8 scheduled for December 18th, and so my schedule is the
9 following:

10 I have a trial -- my July trial, which was supposed
11 to be more than a month, pled last minute, but will include
12 what will probably be a trial-like *Fatico* hearing. It is the
13 indictment against the former president or the current
14 president of Venezuela, and it's a general charge under that
15 indictment. That *Fatico* hearing I anticipate might be lengthy
16 and it's a lot of work to prepare for. That's some time in
17 the fall.

18 But prior to that, I have a September 11th trial
19 where I represent Joshua Schulte, who is the former CIA
20 employee that is charged in an espionage case and now a child
21 pornography case. That trial starts September 11th before
22 Judge Furman.

23 We have the December 18th Bryant trial, and then I
24 have a February 12th trial before Judge Vitaliano.

25 So just in practically speaking, I can't try

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1 something on January 29th and February 12th.

2 THE COURT: What is the case -- what is the
3 Judge Vitaliano trial? Is it a single defendant?

4 MR. De CASTRO: No, it's a multi-defendant sex
5 trafficking trial. My client's the lead defendant. I don't
6 if it's a trial.

7 THE COURT: You don't know what?

8 MR. De CASTRO: I don't know if it's going to
9 actually go, of course, meaning whether my client -- I can
10 tell you this. My client's not been made an offer, and he has
11 indicated to me he wants to try the case. So that's where I
12 am on that.

13 And so that -- Judge Cogan's order doesn't fix that
14 piece. But even putting that aside, even if that were fixed,
15 there's just so much for us to do in this case.

16 I have heard of the potential of these charges when
17 Mr. Bryant was brought to the district, but certainly he was
18 not charged.

19 When he was brought to the district, the government
20 was prepared to try these defendants without Mr. Bryant. And
21 so I don't see why a trial cannot continue because it would
22 screw up their rights -- the two defendants' right to a speedy
23 trial. A trial can continue without Mr. Bryant, as it was
24 going to happen anyway.

25 And then we can prepare for what we have, which

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1 is --

2 THE COURT: You submitted a letter to the Court on
3 this subject. Did that letter include the February 12th
4 issue?

5 MR. De CASTRO: Yes.

6 THE COURT: All right.

7 I'm not going to rule on this right at this moment.
8 Let me take this under advisement, let me see what I can sort
9 out and make sense of -- everybody's trial calendar is
10 particularly full. Yours, apparently is as well, and then
11 we'll see where we are. But I appreciate you laying it out
12 for me.

13 MR. De CASTRO: In any event, so I want to be
14 prepared for this trial, which is apparently there might be a
15 trial if there's not going to be a resolution, and I just want
16 sufficient time. And the defendants, the other two defendants
17 in this case have had time.

18 Just to remind the Court, my client is the client
19 that the government has provided evidence that there was a DNA
20 hit and it's a mixture DNA. So I need to have an expert
21 review that and time to deal with that. So there's going to
22 be extensive work for us to do.

23 THE COURT: Fair enough.

24 Remind me, did the government respond to counsel's
25 letter concerning the trial date for Mr. Bryant and whether a

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1 severance would be appropriate? Did you respond?

2 MR. McCONNELL: We did not. It wasn't styled as a
3 severance motion. We're happy to respond.

4 THE COURT: I want to know, but not in this moment,
5 I rather know in a written submission what the government's
6 view of it, taking into account the arguments that were made
7 in the written submission, as well as the arguments that were
8 made here today.

9 MR. McCONNELL: Sure.

10 MR. De CASTRO: Thank you, Judge, if I may.

11 So we are, I think, depending on the Court's
12 decision in terms of us, we would be making a severance
13 motion. Because as I understand it, first of all, both of the
14 other defendants will be pointing at us. They may be pointing
15 at each other. So they're antagonistic defenses. We will be
16 having to defend the case --

17 THE COURT: No, I get that.

18 MR. De CASTRO: I don't want to have to do that.

19 THE COURT: I don't want to have to do that, if it's
20 not necessary.

21 If this becomes a scheduling issue that makes it
22 impossible, and you don't have to brief this, then let's just
23 figure it out that way. But if it turns out that the
24 scheduling issues could be overcome and then I have to
25 entertain a severance motion, I will.

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1 Yes?

2 MR. McCONNELL: I agree.

3 THE COURT: Okay, good.

4 Anything else from the defense's perspective that
5 the Court needs to be updated on?

6 No? All right.

7 I have, so that the parties know, reviewed the
8 questionnaire that was submitted in connection with the
9 upcoming trial scheduled for January.

10 What I would like for Mr. Bryant, if we start to --
11 counsel for Mr. Bryant, I need you to familiarize yourself
12 with the questionnaire, to the extent that you've become
13 applicable to you, and I will address that in the future, but
14 I wanted to raise that as an issue.

15 By and large, I don't have any issues with it. I do
16 have some questions about a couple of the questions, and then
17 we'll resolve that. But I think that we are, in most
18 respects, to go with respect to the questionnaire.

19 How much time do you need to respond on the
20 scheduling issue? This is to the government. On the
21 scheduling issue for Mr. Bryant?

22 MR. McCONNELL: Is two weeks too long, Judge?

23 THE COURT: Not for me.

24 MR. McCONNELL: Okay.

25 THE COURTROOM DEPUTY: July 25th.

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1 THE COURT: July 25th. Okay.

2 Is there anything else that I need to address? If
3 not, we're going to set this down for the next status
4 conference.

5 What is the time that you all think you want?

6 MR. McCONNELL: I think 60 days should work.

7 The only additional issue is the exclusion of time
8 for Defendant Bryant was only up until today, and I believe
9 for the other defendants goes up until the scheduled trial
10 date.

11 THE COURT: All right, let's exclude time until the
12 next status conference for Mr. Bryant for now. I don't have
13 any clarity, obviously, on the trial date for Mr. Bryant.

14 Sixty days, does that sound about right to the
15 defense counsel with respect to a status?

16 MR. HUESTON: Yes, Your Honor, that sounds great.

17 THE COURT: All right.

18 MS. KELLMAN: Your Honor, just I start a six-week
19 trial on September 11th.

20 THE COURT: Of course you do.

21 MS. KELLMAN: But it's in the building, and whatever
22 date Your Honor picks, we can do it perhaps at the lunch break
23 or 4:30.

24 THE COURT: And I don't think we'll be here long.

25 We'll do it the week of September 18th, but we'll do

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1 it at the -- let's do it --

2 MS. KELLMAN: Your Honor, if the Court would agree,
3 the 6th, 7th and 8th? No, okay.

4 THE COURT: What's better or worse for you,
5 lunchtime or in the late afternoon?

6 THE MARSHAL: Lunch is better.

7 THE COURT: Lunch is better, okay. Thank you.

8 MR. De CASTRO: Judge, I'm starting trial
9 September 11th, but the later part of that week we should be
10 wrapped is my hope.

11 THE COURTROOM DEPUTY: The latter part of?

12 MR. De CASTRO: Of that September 18th week.

13 THE COURT: Okay.

14 September 21st at 1 p.m., folks?

15 MR. HUESTON: That's fine, Your Honor.

16 MS. KELLMAN: That's fine, Judge.

17 THE COURT: All right.

18 Do I have an application for an order of excludable
19 delay from the government?

20 MR. McCONNELL: Yes, Your Honor, the time between
21 now and the next status conference date should be excluded in
22 the interest of justice. The parties are still conferring
23 obviously on outstanding issues which need to be written on
24 and discussed, and for those reasons we believe exclusion is
25 appropriate.

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1 THE COURT: All right. This is really most
2 pertinent with respect to Mr. Bryant.

3 Is there any objection to the order that -- the
4 request of the government?

5 MR. De CASTRO: No objection.

6 DEFENDANT JORDAN: Yeah, I object.

7 THE COURT: Okay, hold on. Hold on.

8 Your counsel represents you, gentlemen.

9 No, no, no. Excuse me.

10 (Pause in the proceedings.)

11 MS. KELLMAN: Your Honor, we didn't have a chance to
12 speak with our clients, perhaps we can possibly just have a
13 minute?

14 THE COURT: Hold on. Okay, hold on.

15 I need everybody to bring the temperature down.

16 Understand this. I mean, everybody be quiet.

17 This trial, sir, is scheduled to go forward in
18 January. I am not trying it before January. So you can stomp
19 your feet and yell out in my courtroom and disrupt my
20 proceeding, if you like. It is not going to change the fact
21 that this trial is going forward in January.

22 DEFENDANT JORDAN: Understood.

23 THE COURT: Thank you.

24 I just need you to respect my house.

25 DEFENDANT JORDAN: I understand.

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1 THE COURT: Okay, so you two are going to talk about
2 this, but this is my house.

3 DEFENDANT JORDAN: Understood.

4 THE COURT: All right.

5 The application for an order of excludable delay,
6 and this is respect to Mr. Bryant specifically, as I've
7 already entered an order of excludable delay with respect to
8 the other defendants is granted.

9 Is there anything else that we need to address?

10 MR. McCONNELL: Not from the government, Judge.
11 Thank you.

12 MR. HUESTON: Nothing further.

13 MS. KELLMAN: Nothing further. Thank you.

14 THE COURT: Thank you. We are adjourned.

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16 (Whereupon, the matter was concluded.)

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21 I certify that the foregoing is a correct transcript from the
22 record of proceedings in the above-entitled matter.

23 s/ Linda D. Danelczyk

July 11, 2023

24 LINDA D. DANELCZYK

DATE

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